

Notice of Allowability	Application No.	Applicant(s)	
	10/500,999	KAWAKAMI ET AL.	
	Examiner	Art Unit	
	Laura L. Stockton	1626	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to the RCE and the Amendment, both filed July 9, 2009.
2. ☒ The allowed claim(s) is/are 22, 24, 25 and 30, now renumbered claims 1-4, respectively.
3. ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☒ All b) ☐ Some* c) ☐ None of the:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☒ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
 - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.

Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

- | | |
|------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------|
| 1. <input type="checkbox"/> Notice of References Cited (PTO-892) | 5. <input type="checkbox"/> Notice of Informal Patent Application |
| 2. <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 6. <input checked="" type="checkbox"/> Interview Summary (PTO-413),
Paper No./Mail Date <u>092309</u> . |
| 3. <input type="checkbox"/> Information Disclosure Statements (PTO/SB/08),
Paper No./Mail Date _____ | 7. <input checked="" type="checkbox"/> Examiner's Amendment/Comment |
| 4. <input type="checkbox"/> Examiner's Comment Regarding Requirement for Deposit
of Biological Material | 8. <input checked="" type="checkbox"/> Examiner's Statement of Reasons for Allowance |
| | 9. <input checked="" type="checkbox"/> Other <u>Continued Examination</u> . |

/Laura L. Stockton/
Primary Examiner
Art Unit: 1626

EXAMINER'S AMENDMENT

An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Nicholas J. DiCeglie, Jr. on September 24, 2009.

The application has been amended as follows:

In the Claims

Claim 22, line 1 of claim:

replace "A crystal" with -- An isolated crystal -- .

Claim 22, line 2 of claim:

replace "a formula" with -- the formula -- .

Claim 24, line 1 of claim:

replace "The crystal" with -- The isolated crystal -- .

Claim 25 line 1 of claim:

replace "The crystal" with -- The isolated crystal -- .

Replace **Claim 30** with the following:

30. An isolated crystal of the compound represented by the formula $(\text{BrZnCH}_2\text{COOC}_2\text{H}_5 \cdot \text{THF})_2$ obtained by reacting a compound represented by the formula $\text{BrCH}_2\text{COOC}_2\text{H}_5$ and an excess amount of zinc relative to the compound represented by formula $\text{BrCH}_2\text{COOC}_2\text{H}_5$ in a solvent selected from the group consisting of 2-methyltetrahydrofuran, 1,2-dimethoxyethane, cyclopentyl methyl ether and a mixture thereof in the presence of an activating agent, adding tetrahydrofuran (THF) to the resulting solution, and forming a crystal of the compound represented by the formula $(\text{BrZnCH}_2\text{COOC}_2\text{H}_5 \cdot \text{THF})_2$.

Continued Examination Under 37 CFR 1.114

A request for continued examination under 37 CFR 1.114 was filed in this application after appeal to the Board of Patent Appeals and Interferences, but prior to a decision on the appeal. Since this application is eligible for continued examination under 37 CFR 1.114 and the fee set forth in 37 CFR 1.17(e) has been timely paid, the appeal has been withdrawn pursuant to 37 CFR 1.114 and prosecution in this application has been reopened pursuant to 37 CFR 1.114. Applicant's submission filed on July 9, 2009 has been entered.

Reasons for Allowance

The following is an examiner's statement of reasons for allowance. This invention relates to an isolated crystal of ethyl bromozincacetate coordinated to tetrahydrofuran which has the formula $(\text{BrZnCH}_2\text{COOC}_2\text{H}_5 \cdot \text{THF})_2$. Upon reconsideration, the novel and nonobvious aspect of this invention involves the

fact that a crystal of $(\text{BrZnCH}_2\text{COOC}_2\text{H}_5 \cdot \text{THF})_2$ could be isolated. The closest prior art of record {Dekker et al., Organometallics, (1984), 3(9), pages 1403-1407}. fails to teach an isolated crystal of $(\text{BrZnCH}_2\text{COOC}_2\text{H}_5 \cdot \text{THF})_2$. Therefore, the claims are allowable.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Laura L. Stockton whose telephone number is (571) 272-0710. The examiner can normally be reached on Monday-Friday from 6:00 am to 2:30 pm. If the examiner is out of the Office, the examiner's supervisor, Joseph McKane, can be reached on (571) 272-0699.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

The Official fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300.

/Laura L. Stockton/
Laura L. Stockton
Primary Examiner, Art Unit 1626
Group 1620
Technology Center 1600

September 29, 2009